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HOUSE OF REPRESENTATIVES
REPORT
102-279

APPOINTMENT OF CHAIRMAN OF THE U.S. INTERNATIONAL TRADE COMMISSION

OCTOBER 30, 1991.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 3624]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3624) to amend the Tariff Act of 1930 to provide appropriate procedures for the appointment of the Chairman of the U.S. International Trade Commission, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

BACKGROUND AND PURPOSE

The U.S. International Trade Commission (ITC) is an independent and quasi-judicial agency that conducts investigations, studies, and reports, and makes recommendations to the President and the Congress on a wide range of international trade issues. These issues may be grouped into the following general areas: advice on trade negotiations; Generalized System of Preferences; import relief for domestic industries; East-West trade; investigations of injury caused by subsidized or dumped goods; import interference with agricultural programs; unfair practices in import trade; development of uniform statistical data; matters related to the U.S. tariff schedules; international trade studies; and trade and tariff studies.

The ITC is comprised of six commissioners who are appointed by the President for nine-year terms, unless they are appointed to fill an unexpired term. Of the six commissioners, not more than three may be of the same political party. The chairman and vice chairman are designated by the President for two-year terms, which

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begin on June 17 of even-numbered years. Successive chairmen may not be of the same political party. The President may not designate as the vice chairman for any term any commissioner who is a member of the same political party as the chairman. The vice chairman shall act as chairman in case of the absence or disability of the chairman. Under the current so-called seniority rule, the President may not designate as the chairman for any term either of the two commissioners with the shortest period of service on the Commission as of the beginning date of that term of chairmanship.

As noted above, the chairmanship of the ITC is supposed to rotate every two years between members of different political parties. The last Democratic chairman at the ITC was for the two-year term that expired on June 16, 1986. An independent served as chairman for the term expiring on June 16, 1988, and a Republican served as chairman for the term expiring on June 16, 1990. Since June 17, 1990, the vice chairman, a Republican, has served as acting chairman by operation of law because the President has not appointed a chairman for the current two-year term, which expires on June 16, 1992.

The purpose of H.R. 3624 is to make certain amendments to present law with respect to the procedures for the appointment of the chairman of the ITC. Present law is amended with respect to who shall serve as chairman where the President fails to appoint a chairman, the seniority rule, and who shall serve as chairman for the term beginning June 17, 1992.

Committee Action

H.R. 3624 was introduced on October 24, 1991, by Mr. Rostenkowski and Mr. Archer and was referred to the Committee on Ways and Means. On October 30, 1991, the Committee on Ways and Means, by voice vote, ordered H.R. 3624 favorably reported to the House of Representatives without amendment.

Analysis of Legislation, Comparison With Present Law, and Reasons for Change

PRESENT LAW

Under section 330 of the Tariff Act of 1930, the chairman of the ITC shall be designated by the President from among eligible members of the Commission. With respect to eligibility, the President may not designate as the chairman for any term either of the two commissioners with the shortest period of service on the Commission as of the beginning date of that term of chairmanship. (This is commonly referred to as the seniority rule.) The President may also not designate as the chairman any commissioner who is a member of the same political party as the chairman for the immediately preceding term. The vice chairman shall act as chairman in case of the absence or disability of the chairman. The President may not designate as the vice chairman of the Commission for any term any commissioner who is a member of the political party of which the chairman for that term is a member.

DESCRIPTION OF PROVISIONS

Present law is modified to provide that, where the President fails to appoint a chairman as of the date of a new two-year term, the commissioner with the longest period of continuous service who is a member of a political party different from that of the previous chairman shall automatically serve as chairman until an appointment is made for the new term. The current seniority rule is repealed. A new rule provides that for terms of office for the chairman beginning on and after June 17, 1996, the President may not designate as chairman any commissioner who has less than one year of continuous service as a commissioner as of the date such designation is being made. There is also a specific provision for the appointment of a chairman in 1992 which requires the President to designate a Democratic chairman for the term beginning June 17, 1992. For that term, for the term beginning on June 17, 1994, and for the current term, which began on June 17, 1990, no seniority rule will apply.

REASONS FOR CHANGE

The Committee believes that the amendments to present law contained in H.R. 3624 with respect to the procedures for the appointment of the chairman of the ITC are fully justified. Under present law, where the President fails to appoint a chairman, the vice chairman serves as acting chairman. This might lead to a situation in which the chairmanship of the ITC could effectively remain in the hands of one political party for more than one term, notwithstanding the intent of Congress that the chairmanship rotate every term between members of different political parties. The bill amends the law to ensure that the chairmanship does indeed rotate every term, including in those instances in which the President fails to appoint a chairman. As for the eligibility criteria for the chairmanship, the bill retains a seniority rule but revises it in such a way to give the President more flexibility as to whom he may appoint as chairman. Under the revised seniority rule, the bill requires that any commissioner appointed to the chairmanship have at least one year prior experience as a commissioner without foreclosing the possibility that the two most recently appointed commissioners may be eligible for the position. Under present law, it is possible that a commissioner with more than adequate experience to be chairman could still be ineligible because he or she was one of the two most recently appointed commissioners.

MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause (2)(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee in reporting the bill: H.R. 3624 was ordered favorably reported without amendment by the Committee, by voice vote.

OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives relating to oversight findings, the Committee, based on its ongoing oversight of the activities, budget, and structure of the ITC, has concluded that the amendments to the procedures for the appointment of a chairman are fully justified.

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

BUDGETARY AUTHORITY AND COST ESTIMATES, INCLUDING ESTIMATES OF THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that there are no tax expenditures or new budgetary authority providing financial assistance to State and local governments in the bill.

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee agrees with cost estimates furnished by the Congressional Budget Office on H.R. 3624 and required to be included herein:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 30, 1991.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3624, a bill changing the procedures for the appointment of the chairman of the United States International Trade Commission (USITC), as ordered reported by the House Committee on Ways and Means on October 30, 1991. Enactment of H.R. 3624 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

The President designates the chairman and vice chairman of the USITC. A newly designated chairman cannot be of the same political party as his predecessor. H.R. 3624 would alter rules for determining which commissioners of the USITC would be eligible for the post of chairman. After 1996, commissioners would have to serve one year with the USITC to be eligible for designation as chairman. However, if an outgoing chairman does not complete his term, the service limitation would not apply. The bill also stipulates that the chairman newly designated in 1992 would not be subject to the above restrictions and would have to be of the same political party as the chairman serving on June 16, 1986.

Finally, the bill provides instructions on which commissioner will serve as temporary chairman in the event that the President has not designated a new chairman by the time a new term has begun.

Enactment of H.R. 3624 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to this bill.

If you wish further details, please feel free to contact me or your staff may wish to contact John Stell at 226-2720.

Sincerely,

ROBERT D. REISCHAUER,
Director.

INFLATIONARY IMPACT

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 3624 would not have an inflationary impact on prices and costs in the operation of the general economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 330 OF THE TARIFF ACT OF 1930

SEC. 330. ORGANIZATION OF THE COMMISSION.

(a) * * *

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(c) CHAIRMAN AND VICE CHAIRMAN; QUORUM.—

(1) The chairman and the vice chairman of the Commission shall be designated by the President from among the members of the Commission not ineligible, under paragraph (3), for designation. The President shall notify the Congress of his designations under this paragraph. *If, as of the date on which a term begins under paragraph (2), the President has not designated the chairman of the Commission for such term, the Commissioner who, as of such date—*

(A) is a member of a different political party than the chairman of the Commission for the immediately preceding term, and

(B) has the longest period of continuous service as a commissioner,

shall serve as chairman of the Commission for the portion of such term preceding the date on which an individual designated by the President takes office as chairman.

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[(3)(A) The President may not designate as the chairman of the Commission for any term—

[(i) either of the two commissioners with the shortest period of service on the Commission as of the beginning date of the term of office for which the designation of chairman is to be made; or

[(ii) any commissioner who is a member of the political party of which the chairman of the Commission for the immediately preceding term is a member.]

(3)(A) The President may not designate as the chairman of the Commission for any term any commissioner who is a member of the political party of which the chairman of the Commission for the immediately preceding term is a member.[1]

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(C) If any commissioner does not complete a term as chairman or vice chairman by reason of death, resignation, removal from office as a commissioner, or expiration of his term of office as a commissioner, the President shall designate as the chairman or vice chairman, as the case may be, for the remainder of such term a commissioner who is a member of the same political party. [Designation of a chairman under this subparagraph may be made without regard to the limitation set forth in subparagraph (A)(i).] [1]

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[1] Effective with respect to the terms of the chairman of the International Trade Commission that begin on or after June 17, 1996, the following changes will be made to section 330(c)(3)(A) and (C) of the Tariff Act of 1930:

(3)(A) The President may not designate as the chairman of the Commission for any term any commissioner who is a member of the political party of which the chairman of the Commission for the immediately preceding term is a member, *or who has less than 1 year of continuous service as a commissioner as of the date such designation is being made.*

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(C) If any commissioner does not complete a term as chairman or vice chairman by reason of death, resignation, removal from office as a commissioner, or expiration of his term of office as a commissioner, the President shall designate as the chairman or vice chairman, as the case may be, for the remainder of such term a commissioner who is a member of the same political party. *Designation of a chairman under this subparagraph may be made without regard to the 1-year continuous service requirement under subparagraph (A).*

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